

Deponent: Kenneth David Long
Deponent's First Affidavit
Sworn on 5th October 1987
In support of Plaintiff
Resworn on 7th October 1987

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

1987 C No.6140

B E T W E E N :

CHURCH OF SCIENTOLOGY OF CALIFORNIA Plaintiff

- and -

(1) RUSSELL MILLER

(2) PENGUIN BOOKS LIMITED Defendants

AFFIDAVIT
OF KENNETH DAVID LONG

I, KENNETH DAVID LONG of 1301 North Catalina, Los Angeles, California 90027, United States, an executive employed in the Legal Division of the Church of Scientology of California, MAKE OATH and say as follows:-

1. I have been a member of the Church of Scientology for 11 years, and a member of the Church's staff for 7 years. I am employed by the Church of Scientology of California (hereinafter called "the Church") which is a non-profit

making religious corporation registered in California since 1954. My duties for the past 5 years have required that I work closely with and assist Church counsel in all phases of litigation in the United States, including the Church's litigation with Gerald D. Armstrong.

2. I have caused to be reviewed a manuscript of approximately 375 pages and entitled "Bare-Faced Messiah" by Russell Miller. There is now produced and shown to me marked "KDL 1" a copy of Mr. Miller's manuscript. This book contains direct quotes from unpublished writings of L. Ron Hubbard including personal diaries. From reading this manuscript it is self-evident that the unpublished quotes could not have been included without having the documents at hand. These documents could not have been obtained except by unauthorised access to them.

3. Mr. Miller in his publication goes into a rather detailed explanation as to how Gerry Armstrong, an ex-employee of the Church, had acquired these private writings of Mr. Hubbard's while working as a researcher on a biography of Mr. Hubbard. My affidavit will explain how these unpublished writings could only have come from Gerry Armstrong in breach of his agreements to keep these private writings absolutely confidential.

4. Gerald Armstrong was an employee of the Church from February 1969 to December 1981. There is now produced and shown to me marked "KDL 2", as evidence of Mr. Armstrong's employment, a copy of the W-2 Wage and Tax Statements issued by the Church for Mr. Armstrong during the years 1977 and 1978. There is also now produced and shown to me marked "KDL 3" a copy of an Affidavit executed by Mr. Armstrong on April 12, 1980, in which Mr. Armstrong affirmed at paragraph 1 that he was employed by the Church.

5. On January 8, 1980, Mr. Armstrong requested permission from the Founder of the religion of Scientology, Mr. L. Ron Hubbard, to be allowed to create a position within the Church which would compile, protect and preserve Mr. Hubbard's personal papers. Mr. Armstrong informed Mr. Hubbard that his purpose in making the request was because the position would require that "the person doing such would have to have your trust". There is produced and shown to me marked "KDL 4" a copy of Mr. Armstrong's request of January 8, 1980 to Mr. Hubbard. As the Court will see, Mr. Armstrong's request was copied to his supervisors within the Church in the upper right hand corner of the first page.

6. Upon Mr. Armstrong's request, the Church then allowed Mr. Armstrong to create a position within a division of the Church known as the "Personal Office of LRH". There is now

produced and shown to me marked "KDL 5" a copy of the Fictitious Business Name Statement of March 12, 1980 which established the Personal Office of LRH as a fictitious name for the Church of Scientology of California. Mr.

Armstrong's new position was entitled "Senior LRH Personal Public Relations Officer Researcher" ("Snr R Pers PRO Researcher"). There is now produced and shown to me marked "KDL 6" a copy of the dispatch distributed by Mr. Armstrong on February 3, 1980, announcing his assumption of the new position.

7. As the Court will see, Mr. Armstrong was aware of his obligation to hold confidential the information he obtained as an employee of the Church long before he assumed the position of Researcher in 1980 and he continued to remain aware of this obligation while holding that position. There is now produced and shown to me marked "KDL 7" a copy of the Non-Disclosure and Release Bond executed by Mr. Armstrong on March 18, 1977 in which Mr. Armstrong acknowledged his employment with the Church and that any information or knowledge obtained by him as an employee was done so in a relationship of trust and confidence and imparted to him a fiduciary duty to the Church. There is also now produced and shown to me marked "KDL 8" a copy of the dispatch dated February 22, 1980 and written by Mr. Armstrong, in which he describes the value of the materials which he was collecting

and requesting increased security arrangements for the office in which those materials were to be stored. As the Court will see, Mr. Armstrong stated that he would sleep in the office to ensure the safety of those documents until such time as the security arrangements had been enhanced. There is now also produced and shown to me marked "KDL 9" a dispatch by Mr. Armstrong of May 14, 1980, in which he stated that other Church staff were "extremely reluctant" to furnish him with personal information about Mr. Hubbard's family and friends, and in which Mr. Armstrong obtained access to such information after assuring his fellow staff "as to the confidentiality these files are given".

8. On October 30, 1980, AOSH DK Publications and author Omar V. Garrison entered into an Agreement under which Mr. Garrison was to engage in the writing of a biography of Mr. Hubbard. There is now produced and shown to me marked "KDL 10" a copy of the agreement between Mr. Garrison and AOSH DK Publications. Shortly thereafter, AOSH DK Publications requested assistance from the Church in executing the terms of its agreement with Mr. Garrison, and specifically the assignment of a Church employee who would work as an assistant to Mr. Garrison and "assist in research and office duties as needed". There is now produced and shown to me marked "KDL 11" a copy of the letter of November 14, 1980 sent by the Secretary of the Board for AOSH DK Publications

to the Board of Directors for the Church. As the Court will see, the Board of Directors for the Church confirmed the agreement with the terms of the letter, and later ratified its agreement in a written Resolution. There is now produced and shown to me marked "KDL 12" a copy of the Resolution adopted by the Board of Directors of the Church in adopting the agreements proposed by AOSH DK Publications. Mr. Armstrong was the Church employee thereafter provided to Mr. Garrison pursuant to this agreement.

9. Mr. Armstrong assisted Mr. Garrison as a researcher and office assistant until he voluntarily terminated his employment with the Church on December 12, 1981. As the Court will see, by the time Mr. Armstrong left the Church he had furnished Mr. Garrison with "a great deal of materials" which were in Mr. Garrison's possession. There is now produced and shown to me marked "KDL 13" a copy of Mr. Armstrong's letter of December 12, 1981, in which he resigned his position in the Church.

10. On August 2, 1982, the Church brought a lawsuit against Gerald Armstrong, under two causes of action, namely, conversion and breach of fiduciary relationship, in respect of which the Church sought injunctive relief and imposition of a constructive trust. There is now produced and shown to me marked "KDL 14" a true and accurate copy of the

complaint. On August 24, 1982, the Honourable Judge John L. Cole of the Los Angeles County Superior Court issued a Temporary Restraining Order requiring Mr. Armstrong, his counsel, and all other persons participating or working in concert with Mr. Armstrong to surrender to the Clerk of the Los Angeles Superior Court all of the documents taken by Mr. Armstrong. There is now produced and shown to me marked "KDL 15" a copy of the Temporary Restraining Order. As the Court will see, the terms of that Order specified that the documents surrendered to the Court would remain under seal, available only to the parties in the action and only for purposes of that action.

11. On October 4, 1982, the Honourable Judge John L. Cole issued an order superseding the Temporary Restraining Order, but which maintained the sealing and confidentiality provisions of his prior Order pending resolution of the matter. There is now produced and shown to me marked "KDL 16" a copy of the Preliminary Injunction dated October 4, 1982.

12. On June 24, 1983 after several disputes over the writing of the LRH biography, Mr. Garrison entered into a Settlement Agreement with New Era Publications, the successor corporation to AOSH DK Publications. There is now produced and shown to me marked "KDL 17" a copy of the

public settlement agreement, in which Mr. Garrison acknowledged that he returned all copies of the materials furnished to him to the Church of Scientology International and that he has no right of possession to any of those materials.

13. Trial was heard on the Church's suit against Mr. Armstrong from May 3, 1984 through June 8, 1984. On June 20, 1984 the trial court issued a Memorandum of Intended Decision which, on July 20, 1984, was held to be the Statement of Decision. As the Court will see, the trial court ruled that the Church had made out a prima facie case against Mr. Armstrong for conversion, breach of confidence, breach of fiduciary relationship and invasion of privacy, but that Mr. Armstrong was justified in having taken the materials. The trial court also ordered certain of the previously sealed exhibits to remain under seal while unsealing the majority of the previously sealed trial exhibits. The trial court also ordered that the documents surrendered to the Clerk of the Court pursuant to the Temporary Restraining Order of August 1982 which had not been introduced during trial were to remain under seal pending trial of a separate suit brought by Mr. Armstrong against the Church. There is now produced and shown to me marked "KDL 18" a true and accurate copy of the Memorandum of Intended Decision dated June 20, 1984. This decision is

currently still on appeal.

14. Following the trial, the Church sought and obtained a series of sealing orders which effectively maintained the sealing of the trial exhibits right up to and including December 1986. There is now produced and shown to me marked "KDL 19" true and accurate copies of the sealing orders.

In December 1986, as the result of a settlement agreement reached between the Church and Mr. Armstrong in relation to Mr. Armstrong's cross-complaint, the trial court ordered the documents be returned to the Church. There is now produced and shown to me marked "KDL 20" a true and accurate copy of the December 11, 1986 Order issued by the trial court allowing for the return of the trial exhibits to the Church. The trial exhibits were then returned to the Church without their ever having been made available by the court to the general public for copying.

15. As the Court will see in reviewing "KDL 20", referred to immediately above, the settlement agreement entered into by the Church and Mr. Armstrong did not affect the Church's appeal of the trial court's decision in its case against Mr. Armstrong. In addition to seeking the numerous temporary sealing orders described above following the 1984 trial, the Church had also initiated proceedings to appeal the trial court's July 20, 1984 ruling. That appeal is still pending

with the California Court of Appeal and the action is still very much alive.

16. As stated above I have reviewed the manuscript by Russell Miller entitled "Bare-Faced Messiah". I have also caused to be reviewed certain documents returned to the Church by the court in December 1986 after the settlement with Mr. Armstrong. Mr. Miller's manuscript contains a number of direct quotes taken from these documents which were held under seal by the court.

17. At page 24 of the manuscript, Mr. Miller both refers to information contained in, and quotes directly from, Mr. Hubbard's Boy Scout diary. This diary was never introduced at trial of the action against Mr. Armstrong and so has never been unsealed nor made available to the general public.

18. At pages 45 to 46 of the manuscript, a letter from Mr. Hubbard's mother to Mr. Hubbard is quoted. This document has never been made available to the general public.

19. At pages 81 to 82 of the manuscript, large portions of a letter from Mr. Hubbard to his wife, Polly, are quoted. That letter, which I believe to be dated July 21, 1938, was

taken by Mr. Armstrong and then surrendered to the Clerk of the Court in August 1982. It was never introduced at trial in the action against Mr. Armstrong, and so has never been unsealed or made available to the general public.

20. At page 90 of the manuscript, a sentence from a one page letter from Mr. Hubbard to the Cape Cod Instrument Company is quoted. That letter was taken by Mr. Armstrong as part of a larger compilation of documents concerning a cruise taken by Mr. Hubbard, and was then surrendered to the Clerk of the Court in August 1982. It was never introduced at trial in the action against Armstrong, and so has never been unsealed or made available to the general public.

21. At pages 107 to 108 of the manuscript, several sentences written by Mr. Hubbard on January 6, 1944 in a Journal he kept as an officer in the U.S. Navy are quoted. That Journal was taken by Mr. Armstrong and then surrendered to the Clerk of the Court in August 1982. It was never introduced at trial in the action against Mr. Armstrong and so has never been unsealed or made available to the general public.

22. At pages 23 to 25, 29 to 34 and 37 to 45 of the manuscript, numerous passages are directly quoted from three diaries kept by Mr. Hubbard between 1927 and 1929.

These diaries primarily concern several trips made by Mr. Hubbard to the Orient, including Japan, China and Hong Kong. These have never been available to the general public.

23. On page 258 of the manuscript, Mr. Miller both quotes from and gives information from a "Tentative Constitution for Rhodesia", written by Mr. Hubbard. This document has never been available to the general public.

24. Mr. Armstrong testified during a deposition taken on August 1, 1986 that he had met Mr. Miller in approximately May of 1986. Mr. Armstrong indicated that not only did he believe that Mr. Miller had archival documents, but also that Mr. Miller was aware of the litigation arising out of Mr. Armstrong's breach of fiduciary duty to the Church and would have had or read documents about the Church's suit against him in this respect. Mr. Armstrong also indicated that he had furnished Mr. Miller with documents and information, although he did not identify which documents he had provided to Mr. Miller. There is now produced and shown to me marked "KDL 21" a true and accurate copy of Mr. Armstrong's testimony of August 1, 1986 concerning his contact with Mr. Miller.

25. Mr. Miller, by his own admission, is fully aware that the Church issued legal proceedings against Mr. Armstrong

for removal of Mr. Hubbard's confidential documents from the Church while Mr. Armstrong was employed by the Church. Mr. Miller is also fully aware that the Church has appealed the decision of the Los Angeles Superior Court, and that these confidential documents, the contents of some of which Mr. Miller is now seeking to publish, still remained under court seal when he obtained them from Mr. Armstrong.

26. For the reasons stated above, I know that the documents quoted and paraphrased in Mr. Miller's manuscript were not available to him from the court. I also know that Mr. Armstrong refused to obey an order of the court, and retained possession of documents which he had been ordered to surrender to the court for safekeeping under seal. I also know that Mr. Armstrong had contact with Mr. Miller as early as mid-1986. Based on these facts, it is my belief that the documents quoted and paraphrased in Mr. Miller's manuscript were furnished to Mr. Miller by Mr. Armstrong, and that they could not have been furnished to Mr. Miller by anyone else as no-one else other than Mr. Armstrong had access to these documents. Given these facts I am greatly concerned that Mr. Miller may still be in possession of copies of the said documents and may disseminate confidential information contained therein by distributing copies of the said documents to third parties or in some other manner impart the information contained therein to

such third parties.

27. I have read the affidavit written by David Morton Ziff and understand that Mr. Ziff's affidavit states that he witnessed the taking of a photograph of L. Ron Hubbard on the ship "Apollo" in Portugal in 1970. Mr. Ziff attaches to his affidavit a photograph of L. Ron Hubbard and states that the photograph was taken by Sylvia Calhoun, who at the time was employed by the Church as the "LRH Photographer". This unpublished photograph of L. Ron Hubbard is owned by the Church and the negative of the photograph is in the possession of the Church. There is now produced and shown to me marked "KDL 22" a copy of a photograph of L. Ron Hubbard which is the same photograph of Mr. Hubbard taken by Sylvia Calhoun on the ship Apollo in 1970 as described in the affidavit of Mr. Ziff.

28. There is now produced and shown to me marked "KDL 23" a copy of an advertisement which appeared in the publication "Bookseller", Issue number 4256, dated July 17, 1987. This advertisement depicts the forthcoming book "Bare-Faced Messiah, the True Story of L. Ron Hubbard" and includes a picture of L. Ron Hubbard, which is the same photograph of L. Ron Hubbard marked "KDL 22" which was taken by Sylvia

Calhoun and the copyright in which is owned by the Church as described above. The use of this photograph of L. Ron Hubbard in the advertisement in "Bookseller" is unauthorised and hence an infringement of the copyright in this photograph owned by the Church. I also believe that the photograph of L. Ron Hubbard and design surrounding it in the magazine advertisement in "Bookseller" is a depiction of the front of the dust cover of Russell Miller's forthcoming book. The use of Mr. Hubbard's photograph on the front of the dust cover is likewise unauthorised and an infringement of the Church's copyright in the afore-mentioned photograph of L. Ron Hubbard.

29. I have read the affidavit written by Julie Fisher and understand that Mrs. Fisher's affidavit states that she was one of the individuals who was photographed with L. Ron Hubbard in the Dutch Antilles in late 1974 and early 1975. Mrs. Fisher attaches to her affidavit a photograph of herself, other Church staff and L. Ron Hubbard, and states that the photograph was taken by Maude Castillo, who at the time was employed by the Church as the "LRH photographer". Maude Castillo took this photograph of L. Ron Hubbard in her capacity as a photographer for the Church. The copyright in this unpublished photograph of L. Ron Hubbard is owned by the Church of Scientology of California and the negative of the photograph is in the possession of the Church. There is

now produced and shown to me marked "KDL 24" a copy of a photograph of L. Ron Hubbard which is the same photograph of Mr. Hubbard taken by Maude Castillo in late 1974 and early 1975 as described in the affidavit of Mrs. Julie Fisher and produced there as Exhibit "JT 1".

30. There is now produced and shown to me marked "KDL 25" a copy of a page from Mr. Miller's manuscript. This page includes a photograph depicting L. Ron Hubbard and Church staff, and is the same photograph of Mr. Hubbard marked "KDL 24" that was taken by Maude Castillo and which is owned by the Church as described above. The planned use of this photograph of L. Ron Hubbard by Mr. Miller is unauthorized and hence an infringement of the copyright in this photograph owned by the Church of Scientology of California.

31. The Church has spent thousands of man hours and millions of dollars since 1982 in order to uphold the duty it owed to Mr. Hubbard as the bailee for his materials when they were taken by Mr. Armstrong. If Mr. Miller's manuscript is published with the direct quotations and paraphrases taken from Mr. Hubbard's personal documents, it will completely frustrate the purpose of the appeal by the Church now pending before the Los Angeles Superior Court by making public the very documents whose confidentiality the Church and the Courts have protected for the past five

years.

32. If Mr. Miller is allowed to publish his manuscript containing very personal and intimate details about Mr. L. Ron Hubbard with his photograph referred to in paragraph 29 above as well as the photograph on the dust cover, the buyers may very well at first glance be led to believe that the book has been supported or approved by the Church. Nothing could be further from the truth as the book has been written entirely without the Church's participation.

33. The Church is engaged in the preparations for an official biography of Mr. L. Ron Hubbard. Should Mr. Miller be permitted to use the hitherto unpublished photographs hereinbefore referred to at paragraphs 27 and 29, the Church would be deprived of its first publication rights in respect of the said photographs.

34. If Mr. Miller is allowed to publish the confidential information contained in Mr. Hubbard's personal and private documents, the confidentiality of that information will be forever lost. The Church will be irreparably harmed, without any adequate remedy in monetary terms, as the Court cannot order the bell be unring once it has been rung, or determine how far the sound has reached.

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35. For the reasons I have set out in paragraphs 33 to 36 above, I verily believe that damages would not be an adequate remedy and I ask this Honourable Court to grant an injunction in the terms sought to restrain publication of Mr. Miller's book.


36. I understand that, under the law of the United Kingdom as well as under the laws of the United States, it is necessary to protect the person against whom an injunction is sought by giving an undertaking to cover any damages that might result should the injunction be issued and later be found to have been wrongly issued. The Church can and will make good any such undertaking of monetary damages that might be required. The last published accounts of the Church show a net worth of approximately \$14,000,000. There is now produced and shown to me marked "KDL 26" a copy of the balance sheet as at November 30, 1986.

SWORN at *Sand Hill*)
Flower, East Grinstead)
West Sussex)
)

Kenneth David Long

This 5th day of *October* 1987


Before me,



S. N. BIRD -
A Solicitor.

RESWORN at *23/27*) *Kenneth David Long*
Fleet Street)
London EC4)
 this 7th day of)
 October 1987)

Before me,


 A Solicitor:
4.2 4. 7. 1987